

Exhibit A

THE STATE OF NEW HAMPSHIRE

BELKNAP, SS.

SUPERIOR COURT

Lucien H. Groleau

v.

American Express Financial Advisors, Inc.,
Smith, Sweeney & Associates, Inc.,
Peter H. Smith and Jeremy Sweeney

PETITION FOR SPECIFIC PERFORMANCE

NOW COMES Lucien H. Groleau (Petitioner), by his attorneys, Wadleigh, Starr & Peters, P.L.L.C., and complains against American Express Financial Advisors, Inc., Smith, Sweeney & Associates, Inc., Peter H. Smith and Jeremy Sweeney (Respondents) to seek Specific Performance of Respondents' promise to arbitrate a dispute between them, and says in support thereof:

THE PARTIES

1. Petitioner, Lucien Groleau, is a natural person residing at 145 Pease Road, Meredith, New Hampshire, 03253-5508.
2. Respondent-American Express Financial Advisors, Inc, is a corporation having its principal place of business at 50606 AXP Financial Center, Minneapolis, Minnesota, 55474.
3. Respondent-Smith, Sweeney & Associates, Inc., is a corporation having its principal place of business at American Express Financial Advisors, 204 Powell

Place Ste 122, Brentwood, Tennessee, 37027-7522. Smith, Sweeney & Associates, Inc., is an American Express Financial Advisors, Inc., franchise.

4. Respondent-Peter H. Smith is a natural person and a financial advisor for Smith, Sweeney & Associates, Inc. and American Express Financial Advisors, Inc., with a business address at Smith, Sweeney & Associates, Inc., American Express Financial Advisors, 205 Powell Place Ste 122, Brentwood, Tennessee, 37027-7522.

Respondent-Smith has served as Mr. Groleau's financial advisor since 2000.

5. Respondent-Jeremy Sweeney is a natural person and a financial advisor for American Express Financial Advisors, Inc., with a business address at Smith, Sweeney & Associates, Inc., American Express Financial Advisors, 205 Powell Place Ste 122, Brentwood, Tennessee, 37027-7522. Respondent-Sweeney has served as Mr. Groleau's financial advisor since 2000.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to RSA 491:7.

7. Venue is appropriate in the Belknap County Superior Court because Mr. Groleau resides in Belknap County.

PETITIONER'S ALLEGATION OF FACTS

8. By Writ of Summons dated July 23, 2004, the Petitioner commenced a civil action for damages against Respondents in the Belknap County Superior Court alleging fraudulent misrepresentation, negligent misrepresentation, negligence, breach of fiduciary duty and violation of New Hampshire's Consumer Protection statute, RSA 358-A, against all defendants. In addition, Petitioner brought a separate claim against Respondent-American Express Financial Advisors, Inc., for negligent supervision.

9. By Notice of Removal dated September 1, 2004, Respondents removed Petitioner's civil action for damages to the United States District Court for the District of New Hampshire.

10. On or about September 16, 2004, Respondents filed an Assented to Motion to Continue and Extend Deadlines which was allowed by the Court.

11. On or about October 4, 2004, Respondents filed a second Assented to Motion to Continue and Extend Deadlines which was allowed by the Court.

12. The Respondents never filed an Answer to Petitioner's Complaint. Instead, on November 19, 2004, the parties filed a Joint Assented to Motion to Stay Pending Arbitration by which they

... agree and stipulate that a pre-dispute arbitration clause governs all of the claims raised by Plaintiff in this matter. Accordingly, the parties stipulate that Plaintiff shall arbitrate his claim and this proceeding shall be stayed pending arbitration.

A copy of the parties' Joint Motion is attached as Exhibit A.

13. By Order dated December 1, 2004, the parties' Joint Motion to Stay Pending Arbitration was granted.

14. By Order of January 4, 2006, counsel for the parties were ordered to take steps "necessary to schedule arbitration promptly."

15. On May 2, 2006, counsel for the plaintiff was ordered to show cause why the action "should not be dismissed for failure to prosecute" and was ordered to file a status report by May 25, 2006.

16. On May 25, 2006, counsel for the plaintiff filed the status report requested by the Court on May 2, 2006.

17. By Order dated May 26, 2006, the Court ordered that the matter "shall be concluded within 90 days" and ordered counsel for the plaintiff to file a monthly status report.

18. On June 23, 2006, counsel for the plaintiff filed the first monthly status report required by the Court's Order of May 26, 2006.

19. By Order dated June 27, 2006, the Court ordered that the plaintiff "shall file a status report following arbitration."

20. By Procedural Order dated August 24, 2006, the Federal District Court action was administratively closed. A copy of the Court's Order is attached as Exhibit B.

21. Courts have described an "administrative closure" of a case as a "docket management tool that has no jurisdictional effect." Dees v. Billy, et al., 394 F.3d 1290, 1294 (9th Cir. 2005); see Lehman v. Revolution Portfolio, LLC, 166 F.3d 389, 392 (1st Cir. 1999) ("Administrative closings comprise a familiar, albeit essentially ad hoc, way in which courts remove cases from their active files without making any final adjudication"); see also Penn W. Assoc., Inc. v. Cohen, 371 F.3d 118, 128 (3d Cir. 2004) ("[A]n order merely directing that a case be marked closed constitutes an administrative closing that has no legal consequence other than to remove that case from the district court's active docket.").

22. The Petitioner has requested that the Respondents agree to a date to arbitrate their dispute. The Respondents have refused.

23. The agreement made by the parties on November 19, 2004, contains no time limit or any other condition precedent and is a binding agreement to arbitrate their dispute.

24. The Petitioner has no plain, adequate or complete remedy at law.

WHEREFORE, the Petitioner prays that the Respondents be ordered to engage in arbitration pursuant to their agreement of November 19, 2004, before a mutually acceptable arbitrator(s) and at a mutually acceptable date and time, and for such other and further relief as justice may require.

Respectfully submitted,

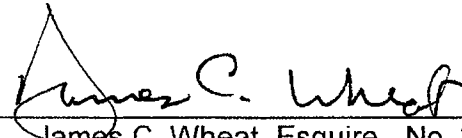
LUCIEN H. GROLEAU

By his attorneys,

WADLEIGH, STARR & PETERS, P.L.L.C.

Dated: 4/28/2010

By



James C. Wheat, Esquire - No. 2721
95 Market Street
Manchester, NH 03101
(603)669-4140

EXHIBIT A

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

LUCIEN H. GROLEAU,)
)
Plaintiff)
vs.)
)
AMERICAN EXPRESS FINANCIAL)
ADVISORS INC., SMITH SWEENEY)
& ASSOCIATES, INC., PETER H. SMITH)
and JEREMY SWEENEY)
)
Defendants)
)

04-CV-332-JM

JOINT MOTION TO STAY PENDING ARBITRATION

NOW COME the parties in the above-captioned matter and hereby agree and stipulate that a pre-dispute arbitration clause governs all of the claims raised by Plaintiff in this matter. Accordingly, the parties stipulate that Plaintiff shall arbitrate his claim and this proceeding shall be stayed pending arbitration.

WHEREFORE, the parties respectfully request that the Court stay this proceeding pending arbitration. No memorandum of law is attached as the requested relief is within the discretion of the Court.

Respectfully submitted,

LUCIEN H. GROLEAU,
By his attorney,
GALLAGHER, CALLAHAN & GARTRELL, PA
214 North Main Street
P.O. Box 1415
Concord, NH 03302-1415
(603) 228-1181
Callahan@gcglaw.com

Dated: November 19, 2004

/s/ MICHAEL R. CALLAHAN

Michael R. Callahan (# 424)

AMERICAN EXPRESS FINANCIAL
ADVISORS INC., SMITH SWEENEY &
ASSOCIATES, INC., PETER H. SMITH
AND JEREMY SWEENEY

By their attorneys,

ORR AND RENO PA
One Eagle Square
Box 3550
Concord, N.H. 03302-3550
(603) 224-2381
lsw@orr-reno.com

Dated: November 19, 2004

/s/ LISA SNOW WADE

Lisa Snow Wade (#5595)

Of Counsel:

Louis M. Ciavarra (BBO# 546481)
Kimberly A. Stone (BBO# 630952)
Bowditch & Dewey, LLP
311 Main Street
P.O. Box 15156
Worcester, MA 01615-0156
(508) 791-3511

EXHIBIT B

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Lucien H. Groleau

v.

Civil No. 04-cv-332-JD

American Express Financial
Advisors, Inc., et al.

PROCEDURAL ORDER

This case was removed to this court on September 12, 2004, and since December of 2004 it has been stayed pending the parties' efforts to resolve the claims through arbitration. The plaintiff was ordered to provide status reports about the progress of arbitration. In response, the plaintiff asked for ninety days to conclude his efforts to arbitrate, which the court granted on May 26, 2006, with the requirement that the plaintiff file monthly status reports.

On June 23, 2006, the plaintiff reported that he anticipated "[e]fforts to schedule arbitration for mid to late July will occur next week." On June 27, the court ordered the plaintiff to file a status report following arbitration. The plaintiff has not filed a status report as of this date.

Given the protracted stay in this case, it is appropriate to administratively close it. The case will be reopened upon motion of either party.

Conclusion

For the foregoing reasons, the clerk of court shall
administratively close this case.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

August 24, 2006

cc: Michael R. Callahan, Esquire
Lisa Snow Wade, Esquire

THE STATE OF NEW HAMPSHIRE

BELKNAP, SS.

SUPERIOR COURT

Lucien H. Groleau

v.

American Express Financial Advisors, Inc.,
Smith, Sweeney & Associates, Inc.,
Peter H. Smith and Jeremy Sweeney

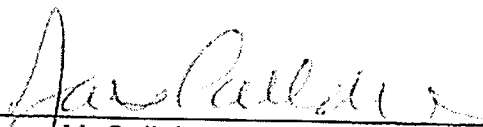
ACCEPTANCE OF SERVICE OF PETITION FOR SPECIFIC PERFORMANCE

I, James M. Callahan, on behalf of all named defendants, hereby acknowledge due and sufficient service of the Petition for Specific Performance by which the matter captioned was initiated and assent to the entry of said Petition on the first Tuesday of June, 2010.

This acknowledgment of due and sufficient service and assent to entry is without prejudice to the defendants' right to assert any and all defenses they may have to the merits of the Petition or to the jurisdiction of the Court.

Dated:

5/11/10


James M. Callahan, Esquire
Bowditch & Dewey, LLP
45 Main Street
P. O. Box 674
Peterborough, NH 03458
(603)924-3050



Direct telephone: (603) 924-3050 X104
Direct facsimile: (603) 924-9764
Email: jcallahan@bowditch.com

May 7, 2010

Dana W. Zucker, Clerk
Belknap County Superior Court
64 Court Street, Suite 5
Laconia, NH 03246-3682

Re: Lucian H. Groleau v. American Express Financial
Advisors, Inc., et al.

Dear Mr. Zucker:

I am enclosing my appearance on behalf of the Defendants in the above-referenced matter, together with a Motion for Admission Pro Hac Vice of Attorneys Louis M. Ciavarra and David Viens for filing with the Court.

A copy of this letter, together with enclosures, is being mailed this day to James C. Wheat, Esquire, Attorney for the Plaintiff.

Thank you.

Very truly yours,

A handwritten signature in dark ink, appearing to read "JMC".

James M. Callahan

JMC/mjg

Enclosures

cc: James C. Wheat, Esquire

Belknap County

THE STATE OF NEW HAMPSHIRE

Superior Court

DOCKET NO. _____

APPEARANCE / WITHDRAWAL

LUCIAN H. GROLEAU

V.

AMERICAN EXPRESS
FINANCIAL ADVISORS, INC.,
SMITH, SWEENEY &
ASSOCIATES, INC., PETER H.
SMITH and JEREMY SWEENEY

Returnable on the first Tuesday of _____

____ Court

(FOR SUPERIOR COURT USE ONLY)

____ Jury

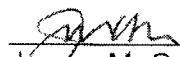
APPEARANCE	WITHDRAWAL
Please enter my appearance as:	Please withdraw my appearance as:
Counsel for: Defendants	Counsel for:
Pro se	Notice of withdrawal sent to my clients on: at the following address:

I hereby certify that duplicates of this notice were:

☒ delivered to: James C. Wheat, Esquire
☒ mailed Wadleigh, Starr & Peters, PLLC
 95 Market Street
 Manchester, NH 03101

on May 7, 2010

Signed:


 James M. Callahan, NH ID #276
 BOWDITCH & DEWEY, LLP
 45 Main Street, PO Box 674
 Peterborough, NH 03458-0674
 (603) 924-3050

THE STATE OF NEW HAMPSHIRE

BELKNAP, SS

SUPERIOR COURT
DOCKET NO.

LUCIEN H. GROLEAU

V.

AMERICAN EXPRESS FINANCIAL ADVISORS, INC.,
SMITH, SWEENEY & ASSOCIATES, INC.,
PETER H. SMITH and JEREMY SWEENEY

**MOTION FOR ADMISSION PRO HAC VICE OF
ATTORNEYS LOUIS M. CIAVARRA
AND DAVID VIENS**

Now Comes Attorney James M. Callahan ("Attorney Callahan"), and moves this Honorable Court admit Attorney Louis M. Ciavarras ("Attorney Ciavarras") and Attorney David Viens *pro hac vice* in this matter and in support thereof, Attorney Callahan states:

1. Attorneys Ciavarras and Viens are licensed to practice in and are in good standing in the highest court in the Commonwealth of Massachusetts;

2. Attorneys Ciavarras and Viens are not under any order of disbarment, suspension or any other disciplinary action; and,

3. Attorney Callahan and Attorney Ciavarras are both partners in the law firm of Bowditch & Dewey, LLP.

4. Attorney Viens is an associate at the law firm of Bowditch & Dewey, LLP.

5. Attorney Callahan will assist Attorneys Ciavarras and Viens with respect to the above captioned matter, will accept service of all process, notices and other papers, and will sign all papers filed with this Court and will attend court proceedings, all if and when required by the Court.

4. Plaintiff's attorney assents to this Motion.

WHEREFORE, Attorney Callahan moves:

1. That this Court grant this assented-to Motion to Admit Attorneys Ciavarra and Viens *pro hac vice* at the Court's earliest convenience and without the necessity of a hearing; and
2. That the Court grant any other such relief as it deems proper under the circumstances.

Respectfully submitted,
AMERICAN EXPRESS FINANCIAL ADVISORS,
INC., SMITH, SWEENEY & ASSOCIATES, INC.,
PETER H. SMITH and JEREMY SWEENEY,
By their attorneys,
BOWDITCH & DEWEY, LLP

BY: 

James M. Callahan, NH ID #276
Bowditch & Dewey, LLP.
45 Main Street, P.O. Box 674
Peterborough, New Hampshire 03458
Tel. (603) 924-3050 ext. 104
Fax (603) 924-9764
jcallahan@bowditch.com

May 7, 2010

CERTIFICATION

I hereby certify that on this date, I have mailed a copy of this Motion to the following:

James C. Wheat, Esquire
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, NH 03101


James M. Callahan



Direct telephone: (508) 926-3408
Direct facsimile: (508) 929-3011
Email: lciavarra@bowditch.com

May 11, 2010

James I. Peale, Acting Clerk
Civil Business
Belknap Superior Court
64 Court Street
Laconia, NH 03246

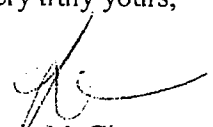
**Re: *Lucien H. Groleau v. American Express Financial
Advisors, Inc. et al - Docket No. 2010-CV-136***

Dear Sir or Madam:

Enclosed in the above matter, please find an Application for Admission Pro Hac Vice of Attorney Louis M. Ciavarra together with a check in the amount of \$225.00.

Thank you for your assistance in this matter.

Very truly yours,



Louis M. Ciavarra

/nao
Enclosure

cc: James C. Wheat, Esquire
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, NH 03101

THE STATE OF NEW HAMPSHIRE

BELKNAP, SS

SUPERIOR COURT
DOCKET NO. 2010-CV-136

LUCIEN H. GROLEAU

V.

AMERICAN EXPRESS FINANCIAL ADVISORS, INC.,
SMITH, SWEENEY & ASSOCIATES, INC.,
PETER H. SMITH and JEREMY SWEENEY

**APPLICATION FOR ADMISSION PRO HAC VICE OF
ATTORNEY LOUIS M. CIAVARRA**

Louis M. Ciavarra ("Attorney Ciavarra") herewith submits this Application for Admission Pro Hac Vice in this matter. Attorney Ciavarra states the following:

1. I am an attorney-at-law, duly admitted to the practice of law in the Commonwealth of Massachusetts. I am a partner in the law firm of Bowditch & Dewey, LLP, 311 Main Street, Worcester, Massachusetts 01608. My residential address is 416 Boston Road, Sutton, Massachusetts 01590.

2. I submit this Application in support of the Motion on behalf of the Defendants to permit me to appear *Pro Hac Vice* as counsel for all Defendants at all proceedings in the above-captioned action. The Defendants in this matter are as follows:

American Express Financial Advisors, Inc.
c/o Faye Atwood, Senior Legal Manager
Ameriprise Financial
5223 Ameriprise Financial Center
Minneapolis, MN 55474, Routing H27-52
Tel. 612-671-6512

Smith, Sweeney & Associates, Inc.
205 Powell Place
Suite 122
Brentwood, TN 37027
Tel. 615-312-8222

Peter H. Smith
Smith, Sweeney & Associates, Inc.
205 Powell Place
Suite 122
Brentwood, TN 37027
Tel. 615-312-8222

Jeremy Sweeney
Smith, Sweeney & Associates, Inc.
205 Powell Place
Suite 122
Brentwood, TN 37027
Tel. 615-312-8222

3. I am a member in good standing of the Bar of the Commonwealth of Massachusetts. I was first admitted to the Bar of the Commonwealth of Massachusetts in 1985. I am also a member in good standing of the First Circuit Court of Massachusetts and the United States District Court of Massachusetts.

4. I have no grievances pending against me, nor have I ever been reprimanded, suspended, involuntarily placed on inactive status, or disbarred, nor have I ever resigned from the practice of law.

5. I am familiar with the Rules of this Court and the rules of the Commonwealth of Massachusetts; First Circuit Court of Massachusetts and the United States District Court of Massachusetts.

6. I am associated in this litigation with my partner, Attorney James M. Callahan (NH ID #276) of the law firm of Bowditch & Dewey LLP, 45 Main Street, Suite 204, P. O., Box 674, Peterborough, NH 03458-0674, telephone number 603-924-3050. Attorney Callahan is authorized to practice law in the State of New Hampshire, and will assist me with respect to the above captioned matter, will accept service of all process, notices and other papers, and will sign all papers filed with this Court and will attend court proceedings, if and when required by the Court, participate on behalf of all Defendants in this litigation.

7. Plaintiff's attorney assents to this Application.

For the foregoing reasons, I respectfully request that the Court grant this Application on behalf of Defendants to have me admitted *Pro Hac Vice* in this matter.

Respectfully submitted,
AMERICAN EXPRESS FINANCIAL ADVISORS,
INC., SMITH, SWEENEY & ASSOCIATES, INC.,
PETER H. SMITH and JEREMY SWEENEY,
By their attorneys,
BOWDITCH & DEWEY, LLP

BY: 

Louis M. Ciavarra
Bowditch & Dewey, LLP
311 Main Street
Worcester, MA 01608
Tel. (508) 926-3408
Fax (508) 929-3011
lciavarra@bowditch.com

May 11, 2010

CERTIFICATION

I hereby certify that on this date, I have mailed a copy of this Application to the following:

James C. Wheat, Esquire
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, NH 03101


Louis M. Ciavarra